

ASSEMBLY BILL

No. 2246

Introduced by Assembly Member Villines

February 20, 2008

An act to amend Section 47612.5 of the Education Code, relating to charter schools, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2246, as introduced, Villines. Charter schools: joint powers agreement: funding.

The Charter Schools Act of 1992 requires the Superintendent of Public Instruction annually to compute a general-purpose entitlement of funding for each charter school from a combination of state aid and local funds. The act allows a charter school with an approved charter to receive funding for nonclassroom-based instruction only if a funding determination is made by the State Board of Education pursuant to a specified statute.

This bill would allow a charter school that commenced operating prior to January 1, 2002, pursuant to a joint powers agreement between 2 school districts to receive general-purpose entitlement funding if the school offers a high school program in which pupils in grade 11 or 12 attend a high school in their school district of residence for 3 hours per day and attend a career technical education program for 3 hours per day that meets the requirements of the California State University and the University of California, is operated pursuant to a joint powers agreement, and in which the pupils are under the direct supervision and control of a certificated employee of one of the applicable school districts of residence.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 47612.5 of the Education Code is
2 amended to read:
3 47612.5. (a) Notwithstanding any other provision of law and
4 as a condition of apportionment, a charter school shall do all of
5 the following:
6 (1) For each fiscal year, offer, at a minimum, the following
7 number of minutes of instruction:
8 (A) To pupils in kindergarten, 36,000 minutes.
9 (B) To pupils in grades 1 to 3, inclusive, 50,400 minutes.
10 (C) To pupils in grades 4 to 8, inclusive, 54,000 minutes.
11 (D) To pupils in grades 9 to 12, inclusive, 64,800 minutes.
12 (2) Maintain written contemporaneous records that document
13 all pupil attendance and make these records available for audit and
14 inspection.
15 (3) Certify that its pupils have participated in the state testing
16 programs specified in Chapter 5 (commencing with Section 60600)
17 of Part 33 in the same manner as other pupils attending public
18 schools as a condition of apportionment of state funding.
19 (b) Notwithstanding any other provision of law and except to
20 the extent inconsistent with this section and Section 47634.2, a
21 charter school that provides independent study shall comply with
22 Article 5.5 (commencing with Section 51745) of Chapter 5 of Part
23 28 and implementing regulations adopted ~~thereunder~~ pursuant to
24 ~~that article~~. ~~The State Board of Education~~ *state board* shall adopt
25 regulations that apply this article to charter schools. To the extent
26 that these regulations concern the qualifications of instructional
27 personnel, ~~the State Board of Education~~ *state board* shall be guided
28 by subdivision (l) of Section 47605.
29 (c) A reduction in apportionment made pursuant to subdivision
30 (a) shall be proportional to the magnitude of the exception that
31 causes the reduction. For purposes of paragraph (1) of subdivision
32 (a), for each charter school that fails to offer pupils the minimum
33 number of minutes of instruction specified in that paragraph, the

1 Superintendent shall withhold from the charter school's
2 apportionment for average daily attendance of the affected pupils,
3 by grade level, the sum of that apportionment multiplied by the
4 percentage of the minimum number of minutes of instruction at
5 each grade level that the charter school failed to offer.

6 (d) (1) Notwithstanding any other provision of law and except
7 as provided in paragraph (1) of subdivision (e), a charter school
8 that has an approved charter may receive funding for
9 nonclassroom-based instruction only if a determination for funding
10 is made pursuant to Section 47634.2 by the ~~State Board of~~
11 ~~Education~~ *state board*. The determination for funding shall be
12 subject to ~~any~~ the conditions or limitations the ~~State Board of~~
13 ~~Education~~ *state board* may prescribe. The ~~State Board of Education~~
14 *state board* shall adopt regulations on or before February 1, 2002,
15 that define and establish general rules governing
16 nonclassroom-based instruction that apply to all charter schools
17 and to the process for determining funding of nonclassroom-based
18 instruction by charter schools offering nonclassroom-based
19 instruction other than the nonclassroom-based instruction allowed
20 by paragraph (1) of subdivision (e). Nonclassroom-based
21 instruction includes, but is not limited to, independent study, home
22 study, work study, and distance and computer-based education. In
23 prescribing ~~any~~ conditions or limitations relating to the
24 qualifications of instructional personnel, the ~~State Board of~~
25 ~~Education~~ *state board* shall be guided by subdivision (l) of Section
26 47605.

27 (2) Except as provided in paragraph (2) of subdivision (b) of
28 Section 47634.2, a charter school that receives a determination
29 pursuant to subdivision (b) of Section 47634.2 is not required to
30 reapply annually for a funding determination of its
31 nonclassroom-based instruction program if an update of the
32 information the ~~State Board of Education~~ *state board* reviewed
33 when initially determining funding would not require material
34 revision, as that term is defined in regulations adopted by the board.
35 A charter school that has achieved a rank of 6 or greater on the
36 Academic Performance Index for the two years immediately prior
37 to receiving a funding determination pursuant to subdivision (b)
38 of Section 47634.2 shall receive a five-year determination and is
39 not required to annually reapply for a funding determination of its
40 nonclassroom-based instruction program if an update of the

1 information the ~~State Board of Education~~ *state board* reviewed
2 when initially determining funding would not require material
3 revision, as that term is defined in regulations adopted by the *state*
4 board. Notwithstanding any provision of law, the ~~State Board of~~
5 ~~Education~~ *state board* may require a charter school to provide
6 updated information at any time it determines that a review of that
7 information is necessary. The ~~State Board of Education~~ *state board*
8 may terminate a determination for funding if updated or additional
9 information requested by the *state board* is not made available to
10 the *state board* by the charter school within a reasonable amount
11 of time or if the information otherwise supports termination. A
12 determination for funding pursuant to Section 47634.2 ~~may shall~~
13 not exceed five years.

14 (3) A charter school that offers nonclassroom-based instruction
15 in excess of the amount authorized by paragraph (1) of subdivision
16 (e) is subject to the determination for funding requirement of
17 Section 47634.2 to receive funding each time its charter is renewed
18 or materially revised pursuant to Section 47607. A charter school
19 that materially revises its charter to offer nonclassroom-based
20 instruction in excess of the amount authorized by paragraph (1)
21 of subdivision (e) is subject to the determination for funding
22 requirement of Section 47634.2.

23 (4) *A charter school that commenced operating prior to January*
24 *1, 2002, pursuant to a joint powers agreement between two school*
25 *districts is eligible to receive general-purpose entitlement funding,*
26 *calculated pursuant to Section 47633, if the school offers a high*
27 *school program in which pupils in grade 11 or 12 attend a high*
28 *school in their school district of residence for three hours per day*
29 *and attend a career technical education program for three hours*
30 *per day that meets the requirements of the California State*
31 *University and the University of California, is operated pursuant*
32 *to a joint powers agreement, and in which the pupils are under*
33 *the direct supervision and control of a certificated employee of*
34 *one of the applicable school districts of residence in accordance*
35 *with subdivision (l) of Section 47605.*

36 (e) (1) Notwithstanding any other provision of law, and as a
37 condition of apportionment, “classroom-based instruction” in a
38 charter school, for the purposes of this part, occurs only when
39 charter school pupils are engaged in educational activities required
40 of those pupils and are under the immediate supervision and control

1 of an employee of the charter school who possesses a valid teaching
2 certification in accordance with subdivision (l) of Section 47605.
3 For purposes of calculating average daily attendance for
4 classroom-based instruction apportionments, at least 80 percent
5 of the instructional time offered by the charter school shall be at
6 the schoolsite, and the charter school shall require the attendance
7 of all pupils for whom a classroom-based apportionment is claimed
8 at the schoolsite for at least 80 percent of the minimum
9 instructional time required to be offered pursuant to paragraph (1)
10 of subdivision (a) of Section 47612.5.

11 (2) For the purposes of this part, “nonclassroom instruction” or
12 “nonclassroom-based instruction” means instruction that does not
13 meet the requirements specified in paragraph (1). The ~~State Board~~
14 ~~of Education~~ *state board* may adopt regulations pursuant to
15 paragraph (1) of subdivision (d) specifying other conditions or
16 limitations on what constitutes nonclassroom-based instruction,
17 as it deems appropriate and consistent with this part.

18 (3) For purposes of this part, a schoolsite is a facility that is used
19 principally for classroom instruction.

20 (4) Notwithstanding any other provision of law, neither the ~~State~~
21 ~~Board of Education~~ *state board*, nor the Superintendent may waive
22 the requirements of paragraph (1) of subdivision (a).

23 SEC. 2. This act is an urgency statute necessary for the
24 immediate preservation of the public peace, health, or safety within
25 the meaning of Article IV of the Constitution and shall go into
26 immediate effect. The facts constituting the necessity are:

27 In order to stabilize the budgets of charter schools that operate
28 pursuant to joint powers agreements by providing general-purpose
29 entitlement funding to those schools at the earliest possible time,
30 it is necessary that this act take effect immediately.